

**LEGAL ISSUES**

1. Whether the 2010 amendment to SDCL 26-10-25 is applicable to claims commenced prior to the effective date of those amendments.

**Trial Court's Ruling:** The trial court held that the 2010 amendment to SDCL 26-10-25 was applicable to claims commenced prior to the effective date of that statute.

**Relevant Authority**

Baatz v. Arrow Bar, 426 NW 2d 298 (SD 1988)

Stratmeyer v. Stratmeyer, 1997 SD 96

Hohm v. City of Rapid City, 2008 SD 65, 753 NW 2d 895

State of Minn. ex rel. Hove v. Doese, 501 NW 2d 366 (SD 1993)

SDCL 2-14-24

SDCL 2-14-21

SDCL 2-14-16

SDCL 26-10-25

2. Whether application of the 2010 amendment to SDCL 26-10-25 is constitutional under federal and state constitutions.

**Trial Court's Ruling:** The trial court held that the retroactive application of the 2010 amendment to SDCL 26-10-25 was not unconstitutional.

**Relevant Authority**

Matter of Certif. of Questions of Law, 544 NW 2d 183. 188-189 (SD 1996).

United States v. Klein, 80 U.S. 128 (1871)

Cleburne v. Cleburne Living Center, Inc., 473 US 432, 440 (1985)

Romer v. Evans, 517 US 620

SDCL 26-10-25

South Dakota Constitution Article 6 § 20

Fourteenth Amendment to the United States Constitution

United States Constitution Article I, § 8, cl. 3.

3. Whether Defendants may be liable to Plaintiffs under the Doctrine of Respondeat Superior.

**Trial Court's Ruling:** The trial court held that the actions of the Defendants' agents and employees were not within the scope of their employment.

**Relevant Authority**

Leafgreen v. American Family Mutual Insurance Co., 393 N.W.2d 275 (S.D.1986).

Bowman v. Home Life Ins. Co. of America, 243 F.2d 331 (3rd Cir.1957)

Fearing v. Bucher, 977 P.2d 1163 (OR 1999)